

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Criminal Action No. 5:02CR70-09
(STAMP)

KATHY COURTRIGHT,

Defendant.

ORDER DENYING DEFENDANT'S MOTION PURSUANT TO § 3582(c)(2)

On July 15, 2005, defendant, Kathy Courtright, filed a motion to reduce her sentence pursuant to 18 U.S.C. § 3582(c)(2). Specifically, the defendant argues that the Supreme Court's decision in United States v. Booker, 235 S. Ct. 738 (2005), which excised § 3553(b)(1), requires this Court to reduce defendant's sentence. Section 3582(c)(2) states, in pertinent part:

In the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. § 994(o), upon motion of the defendant or the Director of the Bureau of Prisons, or on its own motion, the court may reduce the term of imprisonment, after considering the factors set forth in § 3553(a) to the extent that they are applicable, if such a reduction is consistent with the applicable policy statement issued by the Sentencing Commission.

Id. (emphasis added). In light of the plain language of the statute, the defendant's argument is without merit. The defendant has not been sentenced to a term of imprisonment based on a sentencing range that has subsequently lowered by the Sentencing Commission. Moreover, the defendant's sentence is consistent with

the factors set forth in § 3553(a) for the imposition of a sentence. Accordingly, the defendant's motion is hereby DENIED.

IT IS SO ORDERED.

The Clerk is directed to transmit a copy of this order to the defendant and to counsel of record herein.

DATED: July 18, 2005

/s/ Frederick P. Stamp, Jr.
FREDERICK P. STAMP, JR.
UNITED STATES DISTRICT JUDGE